

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

In re VALEANT PHARMACEUTICALS	)	Master No. 3:15-cv-07658-MAS-LHG
INTERNATIONAL, INC. SECURITIES	)	
LITIGATION	)	<u>CLASS ACTION</u>
	)	
_____	)	STIPULATION AND
This Document Relates To:	)	ADDENDUM TO STIPULATION
	)	AND CONFIDENTIALITY ORDER
ALL ACTIONS.	)	
	)	
_____	)	

WHEREAS, discovery (including without limitation, interrogatories, document productions, and depositions) and other proceedings in *In re Valeant Pharmaceuticals International, Inc. Sec. Litig.*, Master No. 3:15-cv-07658-MAS-LHG, and related cases identified in the Case Management Order No. 1 [ECF No. 369] (collectively, “Actions”), may involve the production or disclosure of Confidential Information or Highly Confidential Information, including “protected health information” as defined by the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. parts 160 and 164, promulgated pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”);

IT IS HEREBY STIPULATED AND AGREED, by and among the parties to the Actions, through the undersigned counsel, that in accordance with Local Civ. Rule 5.3, this Addendum shall add the following provisions to the Stipulation and Confidentiality Order entered by the Court on July 18, 2017, in Case No. 15-cv-07658 [ECF No. 244] and on January 19, 2018 in the related actions [*e.g.*, Case No. 16-cv-7212, ECF No. 82] (the “Confidentiality Orders”), and shall govern the handling of “protected health information,” contained in Discovery Material<sup>1</sup> produced by or obtained from any non-party during the proceedings in the Actions.

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<sup>1</sup> Unless otherwise noted, the defined terms used herein have the same definitions set forth in the Confidentiality Orders.

1. Confidential Information shall include “protected health information” as defined in 45 C.F.R. parts 160 and 164 promulgated pursuant to HIPAA, which includes but is not limited to information relating to (i) the past, present, or future physical or mental health or condition of an individual; (ii) the provision of health care to an individual; or (iii) the past, present, or future payment for the provision of health care to an individual, and which identifies the individual or which reasonably could be expected to identify the individual.

2. All references to “Highly Confidential Information” in the Confidentiality Orders shall be deemed to include reference to a limited “Highly Confidential Information – Attorneys’ Eyes Only” designation that will apply to Discovery Material produced by Pharmacy Benefit Managers (“PBM(s)”). With respect to documents produced by any PBM only, Highly Confidential Information may be designated as “Highly Confidential – Attorneys’ Eyes Only,” but only where such information includes non-public information of such a competitive and business sensitivity that its disclosure is substantially likely to cause competitive, commercial or other injury if disclosed to a non-attorney. Under no circumstances other than those specifically provided for in this Addendum or subsequent Court orders, or other than with the explicit written consent of the Producing Party, shall Highly Confidential – Attorneys’ Eyes Only materials produced by PBMs, in any way be revealed, disclosed, summarized, or otherwise made known to persons (including without limitation counsel for parties to any action other than these Actions) except those listed in paragraph 4(a)-(k) of the Confidentiality Orders.

3. Except as provided for in paragraph 21 of the Confidentiality Orders, Confidential Information and/or Highly Confidential Information in these Actions, addressed by this Addendum, shall not be used for any purpose whatsoever other than the prosecution and defense of these Actions or any appeal therefrom. For avoidance of doubt, this provision specifically prohibits the use of “protected health information” for any purpose other than litigation of the Actions, regardless of whether such “protected health information” has been designated as Confidential Information pursuant to the terms of this Stipulation and Order.


4. The parties agree that the Confidentiality Order together with this Addendum will constitute a “qualified protective order” under 45 C.F.R. 164.512(e).

5. Any Disclosing Party may continue to redact “protected health information” as set forth in paragraph 27 of the Confidentiality Orders.

**ORDER**

IT IS SO ORDERED.

DATED: MARCH 12, 2019

  
\_\_\_\_\_  
THE HON. MICHAEL A. SHIPP LOIS H. GOODMAN  
UNITED STATES DISTRICT JUDGE  
MAGISTRATE

DATED: March 5, 2019

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## APPENDIX A

### ACKNOWLEDGMENT

I hereby acknowledge that I have read a copy of the Stipulation and Confidentiality Orders and Addendum for the Production of Information Protected Under the Health Insurance Portability and Accountability Act (“HIPAA Stipulation and Order”) entered in the action entitled *In re Valeant Pharmaceuticals International, Inc. Sec. Litig.*, Master No. 3:15-cv-07658-MAS-LHS, presently pending in the United States District Court for the District of New Jersey (the “Court”) and all related cases identified in the Case Management Order No. 1 [ECF No. 369] that are being coordinated for pretrial purposes (collectively, “Actions”), that I understand the terms thereof and agree to be bound by its terms, and that I submit myself to the jurisdiction of the Court, wherever I may be, for the enforcement of this HIPAA Stipulation and Order, even if such enforcement proceedings occur after termination of these Actions.

I will not reveal the Confidential or Highly Confidential Discovery Material to anyone, except as allowed by the Order. I will maintain any Confidential or Highly Confidential Discovery Material in my possession, including copies, notes, or other transcriptions made therefrom, in a secure manner to prevent unauthorized access to it. No later than twenty (20) days after I receive written or electronic notice from a party to the Actions that the Actions have concluded and the time period for appeals has

expired, I will either destroy or return the Confidential or Highly Confidential Discovery Material, including copies, notes, or other transcriptions made therefrom, to the counsel who provided me with the Confidential or Highly Confidential Discovery Material.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct and that this certification is executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_.

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